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Attorney for Plaintiffs

Hon. Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DREW TRACY, DUANE SCHUMAN,
RICK STEELE, CHRIS LINES, DANIEL
KEVIN GRIFFEE, RICHARD HUFFMAN,
LEE HAZELTON and SCOTT WILLIS,
individually,

Plaintiffs,

v.

THE CITY OF VANCOUVER, a
municipality

Defendant.

Case No. 3:17-cv-05414-RBL

FIRST AMENDED COMPLAINT

(Fair Labor Standards Act violations)

DEMAND FOR JURY TRIAL (FRCP 38)

NATURE OF THE ACTION

1. Plaintiffs bring this for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 201-219 ("FLSA").

JURISDICTION AND VENUE

2. This court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b) for violations of the FLSA.

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1 employees has not been given particular weight by the Fire Chief or any other decision-maker.
2 Instead, Plaintiffs' suggestions and recommendations are routinely ignored.

3 12. For at least the preceding three years, the Fire Chief and Deputy Fire Chief have made
4 and continue to make all decisions regarding hiring, firing, advancement, promotion or any other
5 change of status of employees without giving particular weight to the suggestions or
6 recommendations of the Plaintiffs.

7 13. For at least the preceding three years, Plaintiffs have been engaged in the emergency
8 responder duties of firefighters, including to prevent, control and extinguish fires ("fire
9 suppression activities"), to control and respond to hazardous scenes and natural disasters; to
10 rescue victims of fire, accident, crime and natural disasters; and to conduct investigations and
11 inspections, and other similar work as their primary job duty or function.

12 14. For at least the preceding three years, Plaintiffs' primary duty has not been the
13 management of the City's Fire Department or any other a customarily recognized department or
14 subdivision of the City of Vancouver, other than within their duties as emergency responder
15 firefighters.

16 15. For at least the preceding three years, Plaintiffs' primary duty has not been the
17 performance of office or non-manual work directly related to management or general business
18 operations of the City of Vancouver or the City's Fire Department.

19 16. The above-described Plaintiffs routinely performed shift work in excess of forty (40)
20 hours per week for which they were not paid time-and-one-half (1.5) overtime pay, or did not
21 receive compensatory time at the rate of time-and-one-half (1.5).

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FIRST CLAIM FOR RELIEF

(Unpaid overtime wages – 29 U.S.C. §§ 207 *et seq.*)

17. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 16.

18. Defendant violated the overtime provisions of the FLSA, 29 U.S.C. §§ 207 *et seq.*, by permitting work in excess of forty (40) hours per week for which Plaintiffs were not compensated at the overtime rate of time-and-one-half (1.5) or with compensatory time at the overtime rate of time-and-one-half (1.5).

19. Plaintiffs have repeatedly raised this issue of inadequate and unlawful compensation to Defendant.

20. Defendant has persisted in compensating Plaintiffs at a rate of time-and-one-quarter (1.25), instead of at the overtime rate of time-and-one-half (1.5).

21. Defendant's violations are willful, thereby entitling Plaintiffs to the three-year FLSA statute of limitations.

22. As a direct result of Defendant's willful failure to pay all overtime wages due them, Plaintiffs are collectively owed at least \$200,000 in unpaid wages, plus prejudgment interest, with the exact amount owed to each to be proven at trial.

23. As a direct result of Defendant's willful failure to issue all compensatory time due to them, Plaintiffs are owed approximately forty (40) hours of compensatory time each, with the exact number of compensatory hours owed to each to be proven at trial.

24. Plaintiffs are entitled under 29 U.S.C. § 216(b) to recover an amount equal to the amount of proven unpaid overtime wages as liquidated damages.

25. Plaintiffs are entitled to recover attorney's fees, expenses and litigation costs pursuant to 29 U.S.C. § 216(b).

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1 WHEREFORE, Plaintiffs pray for relief as follows:

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- 3 1. An order requiring Defendant to pay Plaintiffs at a rate of time and one-half (1.5) for all
- 4 overtime hours worked and to provide compensatory time at a rate of time and one-half
- 5 (1.5);
- 6 2. Economic damages for Plaintiffs' unpaid overtime wages, including prejudgment
- 7 interest;
- 8 3. Liquidated damages for Defendant's willful violation of the FLSA;
- 9 4. Compensatory time awarded to each Plaintiff at a rate of time and one half (1.5);
- 10 5. Attorney's fees, costs, and expenditures; and
- 11 6. Such other and further relief as the Court deems just and equitable to Plaintiffs.

12 DATED this 16st day of April, 2018.

13 TEDESCO LAW GROUP
14 s/Katelyn S. Oldham

15 _____
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19 Attorney for Plaintiffs
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **FIRST AMENDED COMPLAINT** on:

Dan Lloyd and
Sara Baynard
City Attorney's Office
City of Vancouver
PO Box 1995
Vancouver, WA 98668-1995

☐ by mailing to said attorney(s) a full and correct copy thereof, contained in a sealed envelope, with postage paid, addressed to said attorney(s) as stated above and deposited in the United States Post Office at Portland, Oregon on the date set forth below.

☒ by electronic means through the Court's Case Management/Electronic Case File system on the date set forth below.

☐ by e-mailing to said attorney(s) a full and correct copy thereof, addressed to said attorney(s) as stated above on the date set forth below.

☐ by hand delivering to said attorney(s) a true copy thereof on the date set forth below.

☐ by faxing to said attorney (s) a true copy thereof on the date set forth below.

☐ by concurrently electronically mailing this documents in Word format to each attorney's last-known e-mail address on the date set forth below.

DATED this 16th day of April, 2018.

TEDESCO LAW GROUP

s/Katelyn S. Oldham

Katelyn S. Oldham, WSB No. 35266

Attorney for Plaintiffs